

# FUND-RAISING ACT 107 OF 1978

(English text signed by the State President)

*[Assented To: 20 June 1978]  
[Commencement Date: 1 September 1979]*

## as amended by:

Fund-raising Amendment Act 41 of 1980  
Fund-raising Amendment Act 19 of 1981  
Fund-raising Second Amendment Act 92 of 1981  
Fund-raising Amendment Act 82 of 1983  
Fund-raising Amendment Act 115 of 1991  
Fund-raising Amendment Act 43 of 1994  
Nonprofit Organizations Act 71 of 1997

### **NOTE:**

The Act has been amended by s. 33 of Act 71/97 by the repeal of Chapters I and III to the extent that they apply to fund-raising organisations, branches of such organisations and any other organisation contemplated in Chapter I of this Act.

## ACT

**To provide for control of the collection of contributions from the public; the appointment of a Director of Fund-raising; the establishment of a Disaster Relief Fund, a South African Defence Force Fund and a Refugee Relief Fund; the declaration of certain disastrous events as disasters; and other matters connected therewith.**

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## 1. Definitions

- (1) In this Act, unless the context otherwise indicates -

“**appeal committee**” means an appeal committee appointed in terms of section 10 (1);

“**appellant**” means any person noting an appeal in terms of section 10 (1);

“**authorized organization**” means any organization to which a special authority has been granted in terms of section 21;

“**authorized person**” means any person to whom a special authority has been granted in terms of section 21;

“**authority**” means an authority granted in terms of section 4;

“**board**” means a board established in terms of section 17;

“**branch**” means a group or association of persons carrying out the functions or carrying on the activities of a fund-raising organization within a particular area and which is managed in terms of a constitution by a committee consisting of not fewer than five persons;

“**certified copy**” means a copy certified by a commissioner of oaths to be a true copy of the original document;

“**collect**”, in relation to contributions, means in any manner whatsoever soliciting, accepting, collecting or obtaining contributions from the public or attempting so to collect or obtain;

“**constitution**” means the written provisions in terms of which an organization is constituted and managed;

“**contributions**” means movable or immovable property, including money or anything that can be exchanged for or converted into money, which is not transferred in fulfilment of a legally enforceable obligation (except a donation or gift) and the mere transfer of which does not confer the right to claim any consideration (except any consideration in relation to any competition, contest, game, scheme, arrangement or system in connection with which any prize may be won);

[Definition of “contributions” amended by s. 1 of Act 41/80]

**“Director”** means the Director of Fund-raising appointed under section 3;

**“financial statements”** means the financial statements mentioned in section 12 (1);

**“fund-raising organization”** means any organization in respect of which an authority has been granted in terms of section 4;

**“holder”** means any person to whom or organization to which a temporary authority has been granted in terms of section 6;

**“inspector”** means an inspector appointed under section 30;

**“local authority”** means any institution or body referred to in section 84 (1) ( f ) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), and also an Administration Board referred to in section 2 of the Administration of Black Affairs Act, 1971 (Act No. 45 of 1971);

**“management”** means the committee or other body of an organization designated or appointed by or in terms of the constitution of the said organization and by which the affairs of such organization are managed;

**“Minister”** means the Minister of Social Welfare and Pensions and, for the purposes of Chapter II, includes the Minister of Defence in so far as that Chapter applies in relation to the South African Defence Force Fund;

**“organization”** includes any body, group or association of persons, any institution, federation, society, movement, trust or fund, incorporated or unincorporated, and whether or not it has been established or registered in accordance with any law and, for the purposes of section 30, includes a fund-raising organization and an authorized organization;

**“permission”**, in relation to a fund-raising organization, registered branch or holder, means a permission referred to in section 7 (1) and, in relation to a board, an authorized organization or an authorized person, means a permission referred to in section 21;

**“prescribed”** means prescribed by regulation;

**“registered branch”** means any branch registered under section 5 (1);

**“registration certificate”** means any registration certificate issued under section 5;

**“regulations”** means the regulations made under section 36;

**“remuneration”** means an amount of money or anything which can be exchanged for or converted into money, but does not include the salary or wages paid by a fund-raising organization or registered branch to any person in its employment who does not carry on business for his own account;

**“Secretary”** means the Secretary for Social Welfare and Pensions and, for the purposes of Chapter II, includes the Head of the South African Defence Force in so far as that Chapter applies in relation to the South African Defence Force Fund;

**“special authority”** means any special authority granted under section 21;

**“special permission”**, in relation to a fund-raising organization, registered branch or holder, means a special permission referred to in section 7 (2) and, in relation to a board, an authorized organization or an authorized person, means a special permission referred to in section 23;

**“temporary authority”** means any authority granted under section 6;

**“this Act”** includes the regulations.

- (2) For the purposes of this Act, any contributions solicited, accepted or obtained from any person or organization being outside the Republic, shall be deemed to have been collected from the public in the Republic.

## **CHAPTER I**

### **COLLECTION OF CONTRIBUTIONS BY FUND-RAISING ORGANIZATIONS, OTHER ORGANIZATIONS AND PERSONS**

(Section 2: Decided cases)

#### **2. Unauthorized collection of contributions prohibited**

No person shall collect contributions unless he is authorized thereto in terms of this Act and unless the collection takes place in accordance with the provisions of this Act.

#### **3. Appointment of Director of Fund-raising**

- (1) The Minister shall, subject to the laws governing the public service, appoint a Director of Fund-raising, who shall exercise such powers and perform such functions as may be conferred or imposed upon him by this Act.

(Section 3(2): Decided cases)

- (2) The Director may, in addition to the other powers and functions conferred or imposed upon him by this Act, generally or in any specified case take such

steps as he may deem necessary or desirable to regulate or to co-ordinate the collection of contributions.

- (3) The Director shall be subject to the administrative control of the Secretary.

#### **4. Authority to organizations to collect contributions**

- (1) (a) The Director may, subject to the provisions of this Act, on application made in the prescribed manner by the management of an organization intending to collect contributions, grant a written authority to such organization to collect, subject to the prescribed conditions and such other conditions as may be specified in the authority, in the area so specified, contributions for the purposes so specified.
- (b) Any organization intending to apply for such authority shall cause to be published in the prescribed manner a notice containing the prescribed information.
- (c) Any such application shall be accompanied by proof of such publication.
- (2) Any person or group of persons may, within the prescribed period and in the prescribed manner, lodge with the Director an objection against the granting of such application.
- (3) The Director may direct the organization concerned to furnish such further information in respect of its application as the Director may deem necessary or expedient, and may cause the application to be investigated and may obtain such further information as he may deem necessary for the consideration of the application.
- (4) No authority shall be granted in terms of this section to any organization -
- (a) which has failed to obtain any authority or permission required by it in terms of the provisions of any other law to carry on its activities;
- (b) which, according to its constitution or application, intends collecting contributions for remuneration for or on behalf of any other organization or person.
- (5) Subject to the provisions of section 7 (3), no authority granted in terms of this section shall confer on the organization to which it has been granted the right to collect contributions for remuneration for or on behalf of any other organization or person.

- (6) Any authority granted in terms of this section shall remain in force for the period for which it has been granted or until it is withdrawn in terms of this Act.

## **5. Branches of fund-raising organizations**

- (1) The Director may, on the application of a fund-raising organization made in the prescribed manner, register a branch of such fund-raising organization and may issue a registration certificate containing the prescribed particulars in respect of such branch.
- (2) No branch shall be registered in terms of subsection (1) in respect of any object other than an object in respect of which the fund-raising organization of which it is a branch is in terms of section 4 authorized to collect contributions, or in respect of any area other than the area in respect of which such fund-raising organization has been so authorized.
- (3) Subject to the provisions of this Act, any registered branch shall be authorized to collect contributions from the public during the validity of the registration certificate, issued in respect of it in terms of subsection (1), in the area and for the purposes set out in the registration certificate.
- (4) A registration certificate issued in terms of subsection (1) shall be kept in custody by the registered branch concerned.
- (5) The Director -
  - (a) shall, at the request of the fund-raising organization concerned or when it is proved to his satisfaction that a registered branch has ceased to be a branch of a particular fund-raising organization;
  - (b) may, after investigation in the prescribed manner, for any reason on the ground of which an authority granted to a fund-raising organization may be withdrawn, after affording the fund-raising organization and registered branch in question an opportunity of advancing reasons in writing against it,  
  
withdraw the registration certificate of the registered branch in question.
- (6) The registration certificate of a branch shall lapse if the authority granted to the fund-raising organization of which it is branch, lapses.
- (7) The registration certificate of a registered branch which has lapsed or has been withdrawn in terms of this Act, shall be returned to the Director by any person in whose possession or under whose control it is, within seven days after such person becomes aware of the lapsing or withdrawal thereof.

## **6. Temporary authority to collect contributions**

- (1) The Director may, on the application in the prescribed manner of any organization or person intending to collect contributions in urgent or temporary circumstances, grant a written authority to such person or organization to collect, subject to the prescribed conditions and the other conditions stated in the authority, in the area so stated, contributions for the purposes so stated.
- (2) A temporary authority shall be granted for a period not exceeding ninety days, but may be extended from time to time for a further period or periods, not exceeding ninety days in the aggregate, as may be determined by the Director.
- (3) The provisions of section 4 (3) shall *mutatis mutandis* apply to an application referred to in subsection (1).
- (4) No temporary authority shall be granted in terms of this section to any organization or person intending to collect contributions for remuneration for or on behalf of any other organization or person and, subject to the provisions of section 7 (3), no such authority shall confer on the holder thereof the right so to collect contributions.

## **7. Collection of contributions for or on behalf of fund-raising organization, registered branch or holder**

- (1) Any person who collects contributions for or on behalf of any fund-raising organization, registered branch or holder shall have in his possession a writing setting out the permission granted by that organization, branch or holder to such person so to collect contributions.
- (2) Any person who for remuneration collects contributions for or on behalf of any fund-raising organization, registered branch or holder shall have in his possession a writing setting out the special permission granted by that organization, branch or holder to such person so to collect contributions for remuneration.
- (3) No fund-raising organization, registered branch or holder shall grant a special permission to any person unless such organization, branch or holder and such person have entered into an agreement for that purpose and unless such agreement has been reduced to writing and a copy thereof has been furnished to the Director.
- (4) Any such agreement shall contain the prescribed particulars.

- (5) Any person who collects contributions by virtue of a special permission, shall, in one of the official languages of the Republic, inform the person from whom he collects or attempts to collect contributions, as well as any other person who is present thereat, that the collection is for remuneration, and shall, at the request of such person or such other person, immediately and in the prescribed manner furnish the person who makes such request with the prescribed particulars of the agreement referred to in subsection (3).
- (6) No person who for remuneration collects contributions for or on behalf of any fund-raising organization, registered branch or holder, shall for the purposes of such collection publish or distribute among the members of the public any advertisement notice, or writing, unless it -
  - (a) states clearly and in a prominent position that the collection is for remuneration;
  - (b) states the places at which and the periods during which certified copies of the agreement referred to in section (3) will lie for inspection by the public;
  - (c) contains the prescribed particulars in respect of the person to whom the special permission has been granted.
- (7) A permission or special permission purporting to be a permission for the collection of contributions the collection of which is prohibited under section 29, shall be invalid.
- (8) Any person who collects or purports to collect contributions for or on behalf of a fund-raising organization, registered branch or holder shall, at the request of the Director or any person authorized thereto by the Director or the local authority concerned, or of a member of a police force established by law, or of any person from whom he collects contributions, produce the permission or special permission granted by the organization, branch or holder in question.
- (9)
  - (a) The fund-raising organization, registered branch or holder which or who has granted a permission or special permission to any person, may at any time, and shall, if the Director for good reasons so directs, by written notice to such person withdraw such permission or special permission.
  - (b) A permission or special permission which has been so withdrawn shall within seven days after the withdrawal be returned by the person to whom it was granted to the fund-raising organization, registered branch or holder by which or by whom it was granted.

- (10) A permission or special permission shall lapse -
- (a) on the expiry of the period for which it was granted or on the expiry of a period of one year reckoned from the date of issue thereof, whichever is the shorter period;
  - (b) if it is withdrawn in terms of subsection (9);
  - (c) if the authority or temporary authority granted to the fund-raising organization or holder which or who has granted the permission or special permission, lapses or is withdrawn in terms of this Act;
  - (d) if the registration certificate of the registered branch which has granted it, lapses or is withdrawn in terms of this Act.
- (11) The provisions of this section shall not apply in respect of any person who assists a fund-raising organization, registered branch or holder -
- (a) with the collection of contributions on particular premises in connection with any bazaar, sale, competition, entertainment, exhibition or other function on such premises, and which is under the direct control of the person in possession of a permission granted by such organization, branch or holder;
  - (b) with a street collection or other collection in a public place which is conducted in accordance with the by-laws or directions of the local authority in question or which is under control of any person who is in possession of a permission granted by such organization, branch or holder.

## **8. Amendment or withdrawal of authority or temporary authority**

- (1) The Director may at any time amend an authority or temporary authority in order to correct any error therein and may, at the request of the organization or person to whom an authority or temporary authority has been granted, amend, replace or withdraw any condition therein or add any condition thereto and may, upon completion of an investigation conducted in the prescribed manner, in his discretion and for any reason other than the aforementioned reasons, amend such authority or temporary authority or may replace such authority or temporary authority with a new authority or temporary authority.
- (2) If any organization or person to which or to whom an authority or temporary authority has been granted, refuses or fails at the written request of the Director to return such authority or temporary authority to the Director within a period of fourteen days after such a request, for amendment thereof as

contemplated by subsection (1), the Director may, without notice, withdraw such authority or temporary authority.

- (3) The Director may at the request of the organization or person to which or to whom an authority or temporary authority has been granted, withdraw such authority or temporary authority and may, after an enquiry in the prescribed manner, withdraw such authority or temporary authority, if he is satisfied that -
- (a) such organization or person has refused or failed to comply with any provision or condition of such authority or temporary authority or with any direction, request or demand of the Director or an inspector given or addressed or made to him in terms of this Act, or to submit to the Director any prescribed return or statement within the prescribed period or has contravened the provisions of section 11;
  - (b) such organization or person has wilfully made a false or misleading statement or furnished false or misleading information in or in connection with any application in terms of this Act or a return or statement which he has to furnish or submit in terms of this Act;
  - (c) such organization or person or a person to whom the said organization or person has granted a permission or special permission in terms of this Act, has acted in contravention of a provision of this Act or has failed to comply with such a provision;
  - (d) such organization has amended its constitution in contravention of a provision of this Act, or has been lawfully dissolved or has not acted in furtherance of its objects for a period of not less than one year;
  - (e) any authority or right which such organization has acquired under or by virtue of the provisions of any other law to perform or carry on its activities, has lapsed or has been withdrawn in terms of such law; or
  - (f) any condition under subsection (4) has not been complied with.
- (4) The Director may, in lieu of withdrawing any authority or temporary authority for any reason referred to in paragraph (a), (b), (c) or (d) of subsection (3), suspend, except in the case of an organization which has been lawfully dissolved, such authority or temporary authority for such period and on such conditions as he may deem fit.
- (5) (a) Subject to the provisions of paragraph (b), the amendment, suspension or withdrawal of any authority or temporary authority in terms of this section shall come into operation with effect from the date on which a

written notice of such amendment, suspension or withdrawal is served by the Director by registered post on the organization to which or person to whom such authority or temporary authority has been granted.

- (b) If in the opinion of the Director it is in any particular case impracticable to serve the notice referred to in paragraph (a), he may cause a prescribed notice of the amendment, suspension or withdrawal in question to be published in the *Gazette*, and such amendment, suspension or withdrawal shall be deemed to have come into operation on the date on which such notice has been so published.
- (c) If an appeal is noted in terms of section 10 against the amendment, suspension or withdrawal of an authority in terms of this section, such amendment, suspension or withdrawal shall, notwithstanding the provisions of paragraph (a), not so come into operation, unless the amendment, suspension, or withdrawal is confirmed on appeal or the prosecution of the appeal is abandoned.

#### **9. Director to furnish reasons**

If the Director refuses an application in terms of section 4, 5 or 6 or withdraws or suspends an authority, temporary authority or registration certificate in terms of section 8 (3) or (4) or section 5 (5), he shall, at the request of the organization which or person who has made the application or to which or to whom the authority, temporary authority or registration certificate has been granted, furnish in writing to such organization or person his reasons for the refusal of the application or for such withdrawal or suspension, as the case may be.

#### **10. Appeal against decision of Director**

- (1) Any fund-raising organization or other organization feeling aggrieved at a decision of the Director relating to the rejection of an application in terms of section 4 or 5 or the amendment, suspension or withdrawal of an authority or registration certificate, or a direction in terms of section 7 (9) (a) by the Director for the withdrawal of a permission or special permission granted by any fund-raising organization or registered branch, may in the prescribed manner appeal against that decision or direction to an appeal committee appointed by the Minister for the particular case.

[Sub-s. (1) substituted by s. 2 of Act 41/80]

- (2) Such appeal committee shall consist of -
  - (a) a magistrate with not less than ten years' experience as a magistrate, who shall be the chairman; and

- (b) two persons who, in the opinion of the Minister, have experience and knowledge of the activities of fund-raising organizations and who have no direct interest in the affairs of the appellant or are not in the service of the appellant or the State.
- (3) The appellant may appear before the appeal committee through a member of its management or through an advocate or attorney, or may submit statements or arguments in writing in support of its appeal.  
[Sub-s. (3) substituted by s. 2 of Act 41 of 1980]
- (4) The procedure to be followed in connection with the noting and prosecution of an appeal in terms of this section shall be prescribed.
- (5) The appeal committee may confirm or set aside the decision of the Director or may give such other decision as in its opinion ought to have been given by the Director, and may direct the Director to do everything necessary to give effect to the decision of the appeal committee.
- (6) Any person who is appointed to an appeal committee in terms of subsection (2) (b), may be paid such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance.

#### **11. Contributions may be used for authorized objects only**

- (1) No contribution collected in terms of any authority, temporary authority, permission or special permission, may without the written consent of the Director be used for any object other than an object referred to in the authority, temporary authority, permission or special permission.
- (2) For the purposes of subsection (1), any expenditure reasonably incurred in connection with an object referred to in that subsection, shall be deemed to have been incurred in respect of such object.

#### **12. Accounting of financial activities**

- (1) Every fund-raising organization, registered branch or holder shall, in one of the official languages of the Republic, keep the prescribed records of all the moneys received and expended by it or him and of all its or his assets and liabilities and of all financial transactions entered into by it or him and shall furnish the Director with the prescribed reports, returns and financial statements at the prescribed times.
- (2) Subject to the provisions of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), such financial statements shall be audited by an accountant and auditor registered in terms of that Act.

- (3) The reports, returns and financial statements of a fund-raising organization, registered branch or holder shall lie for inspection by the public at such places and during such periods and after such notice as may be prescribed.
- (4) The Director may in his discretion grant to a fund-raising organization, registered branch or holder a certificate exempting such fund-raising organization, registered branch or holder for the period and on the conditions and to the extent mentioned in such certificate from any provisions of this Act relating to the furnishing of reports, returns or financial statements and may in his discretion, withdraw or amend such certificate at any time by notice to such fund-raising organization, registered branch or holder.

**13. Procedure on lapsing or withdrawal of authority or registration certificate, on dissolution of organizations or branches or on discontinuance by holder of his activities**

- (1) If any authority or temporary authority or registration certificate lapses or is withdrawn in terms of this Act or if a fund-raising organization or registered branch is dissolved in terms of the provisions of its constitution or in terms of this Act or if such organization or branch or any holder discontinues its or his activities the management of such organization or branch or the holder concerned shall, within the prescribed period -
  - (a) submit to the Director the prescribed returns, statements, liquidation and distribution account and such information as the Director may demand;
  - (b) dispose of the records and documents of such fund-raising organization or registered branch or holder in such manner as the Director may determine.
- (2) The liquidation and distribution account referred to in subsection (1) (a) shall, in the case of a fund-raising organization, give effect as far as possible to the provisions of the constitution of such organization in so far as it relates to the disposal of the assets of the organization on the dissolution of the organization.
- (3) The liquidation and distribution account referred to in subsection (1) (a) shall lie for inspection as prescribed.
- (4) (a) If a temporary authority is withdrawn in terms of this Act or if any surplus moneys or securities remain after the object for which the temporary authority has been granted, has been achieved, any contributions collected in terms of such authority and the surplus shall be disposed of in the manner determined by the Minister.

- (b) In the disposal of any contribution or surplus in terms of paragraph (a), the objects in respect of which the temporary authority was granted, shall be taken into consideration.

#### **14. Dissolution of fund-raising organization and registered branch**

- (1) If a fundraising organization or registered branch discontinues its activities or if an authority or registration certificate granted to it has been withdrawn or has lapsed and the management thereof is not or cannot be so constituted in accordance with its constitution that the fund-raising organization or registered branch may be dissolved, the Director may dissolve such fund-raising organization or registered branch, and for this purpose the Director shall have all the powers of such management and shall in accordance with the constitution of such fund-raising organization or registered branch dispose of the assets of such fund-raising organization or registered branch.
- (2) If such disposal of the assets of the fund-raising organization concerned is not practicable, the Director shall dispose thereof in such manner as the Minister may determine.

[Chapter I has been repealed by s. 33 of Act 71/97, to the extent that it applies to fund-raising organisations, branches of such organisations and any other organisation contemplated in Chapter I of this Act]

### **CHAPTER II**

#### **DISASTER RELIEF FUND, SOUTH AFRICAN DEFENCE FORCE FUND, REFUGEE RELIEF FUND, STATE PRESIDENT'S FUND AND SOCIAL RELIEF FUND**

[Heading substituted by s. 1 of Act 115/91]

#### **15. Definitions**

In this Chapter, unless the context otherwise indicates -

**“active service”** .....

[Definition of “active service” deleted by s. 3 of Act 41/80]

**“Disaster”** means a disaster referred to in section 26;

**“Fund”** means a fund referred to in section 16;

**“full-time member”** means a member of a board appointed on a full-time basis in terms of section 17 (3);

**“psychosocial problems”** means problems in the interaction between a person's psyche and social environment caused by the trauma of violence;

[Definition of “psychosocial problems” inserted by s. 1 of Act 43/94]

**“social relief of distress”** means the alleviation of the need of persons by means of the temporary rendering of material assistance to them;

[Definition of “social relief of distress” added by s. 2 of Act 115/91]

**16. Establishment of Disaster Relief Fund, South African Defence Force Fund, Refugee Relief Fund, State President’s Fund and Social Relief Fund**

There are hereby established -

- (a) a fund to be known as the Disaster Relief Fund;
- (b) a fund to be known as the South African Defence Force Fund;
- (c) a fund to be known as the Refugee Relief Fund;
- (d) a fund to be known as the State President’s Fund
- (e) a fund to be known as the Social Relief Fund.

[S. 16 substituted by s. 1 of Act 82/83 and by s. 3 of Act 115/91]

**17. Management of Fund**

- (1) Each fund shall be managed by a board appointed by the Minister.
- (2) A board referred to in subsection (1) shall be a juristic person.
- (3) A board shall consist of not more than fifteen members, of whom at least one half shall be appointed on a full-time basis.
- (4) At least half of the members of a board shall be persons who are not officers in the public service.
- (5) (a) A full-time member of a board shall hold office for such period, but not exceeding  
five years, as the Minister may determine at the time of the appointment.
- (b) Any other member of a board shall hold office for the period determined by the Minister at the time of the appointment.
- (6) A member of a board whose period of office has expired, shall be eligible for reappointment.
- (7) The Minister may terminate the period of office of any member if in his opinion there are good reasons for doing so.

- (8) No resolution of a board or any action taken on the authority of a board shall be invalid by reason only of a vacancy on the board or because any person who is not a member of the board was present at the meeting of the board in question at which such resolution was taken or such action was authorized.
- (9) The Minister shall designate a full-time member of a board as chairman of that board and another such member as deputy-chairman of that board.
- (10) The quorum for and procedure at meetings of a board shall be as prescribed.
- (11) A member who is not an officer of the public service shall be paid such allowances from the Fund in question as the Minister may with the concurrence of the Minister of Finance determine.

## **18. Objects of boards**

The objects of -

- (a) the board of the Disaster Relief Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to render to persons, organizations and bodies who or which suffer damage or loss caused by a disaster, such assistance as the board may deem fair and reasonable;
- (b) the board of the South African Defence Force Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to render such aid as the board may deem fair and reasonable to members and former members of the South African Defence Force and of auxiliary services established and designated in accordance with section 80 (1) of the Defence Act, 1957 (Act No. 44 of 1957), and their dependants who suffer financial hardship or financial distress arising, directly or indirectly, out of any service or duties contemplated in section 3 (2) of the Defence Act, 1957, performed by such members, and to provide facilities to or for such members and former members who perform or performed such service or duties;  
[Para. (b) substituted by s. 4 of Act 41/80 and s. 1 of Act 19/81]
- (c) the board of the Refugee Relief Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to render such assistance to refugees as the board may deem fair and reasonable;
- (d) the board of the State President's Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to render such assistance as the board may deem fair and reasonable to -
  - (i) the victims of any act of terrorism in respect of their medical treatment and rehabilitation;

- (ii) such victims and their dependants who suffer financial hardship or financial distress caused directly or indirectly by any act of terrorism;  
[Para. (d) added by s. 2 of Act 82/83]
- (e) the board of the Social Relief Fund shall be, with due regard to the financial position of that Fund and the requirements of each case, to make money from the Fund available to organizations that in the opinion of the board are capable of rendering assistance to persons with psychosocial problems and of rendering such social relief of distress as the board may deem fair and reasonable to members of communities that in the opinion of the board are victims of violence.  
[Para. (e) added by s. 4 of Act 115/91 and substituted by s. 2 of Act 43/94]

## **19. Committees of boards**

- (1) A board may, in the prescribed manner and subject to the prescribed conditions and such further conditions as such board may determine, appoint, either from among its own members or otherwise, such committees as it deems necessary or expedient for the achievement of its objects or for the exercise or performance of its powers or functions.
- (2) A board may delegate any of its powers or functions to any of its committees, but shall not be divested of any power so delegated and may amend or withdraw any decision taken by such a committee by virtue of such a delegation.
- (3) The functions of a committee shall be determined by the board in question, and the procedure at the meetings of a committee shall be as prescribed.
- (4) If a board appoints a committee, it shall designate one of the members of such committee as the chairman thereof.

## **20. General powers and functions of boards**

- (1) A board may, in order to enable it to achieve its objects, collect contributions, and may control the collection of contributions by other persons, organizations and bodies for the said objects.
- (2) A board may exercise such powers and shall perform such functions as may be conferred or imposed upon it by this Act, and may exercise such other powers as may be necessary or expedient for or incidental to the achievement of its objects.

## **21. Collection of contributions for particular purposes and particular powers of boards**

- (1) Notwithstanding anything to the contrary in Chapter I contained, no contributions shall be collected for a purpose referred to in section 18, except as provided in this Chapter.
- (2) A board may -
  - (a) collect contributions for the achievement of its objects;
  - (b) grant a special authority in writing to any person or organization to collect during such period and in such area as may be specified in such authority and subject to the prescribed conditions and such other conditions as may be specified in such authority, contributions for the objects of the board concerned, either generally or in a particular case, and such board may vary or withdraw such special authority or any condition thereof (other than a prescribed condition), or may replace any such condition with another condition;
  - (c) undertake such investigations into any matter relating to its objects as it may deem necessary;
  - (d) may purchase or otherwise acquire, hold, alienate or hypothecate any movable property and, with the consent of the Minister acting with the concurrence of the Minister of Finance, any immovable property;
  - (e) hire or let movable or immovable property;
  - (f) enter into any agreement relating to its objects on such terms and conditions as it may deem fit.

## **22. Finances of boards**

- (1) The Funds referred to in section 16 shall consist of -
  - (a) the contributions collected from the public bay, for or on behalf of the board of the Fund in question;
  - (b) any moneys vested in the Fund in question in terms of subsection (2);
  - (c) any moneys appropriated by Parliament for the purposes of the Fund concerned;
  - (d) any amount of money received or acquired from any other source.
- (2) The funds generally known as -
  - (a) the National Relief Fund;

- (b) the Fund for External Relief;
- (c) the National Mine Disaster Fund;
- (d) the Central Food Disaster Fund (1974);
- (e) the Central Fund for Relief to Refugees;
- (f) the South African Defence Force Fund,

shall as from the commencement of this Act cease to exist, and all amounts credited to any such fund immediately before such commencement, shall as from such commencement -

- (i) in the case of the funds referred to in paragraphs (a) to (d), inclusive, vest in the Disaster Relief Fund;
- (ii) in the case of the fund referred to in paragraph (e), vest in the Refugee Relief Fund;
- (iii) in the case of the fund referred to in paragraph (f), vest in the South African Defence Force Fund,

and as from such commencement all liabilities and rights, existing as well as accruing, of the several funds referred to in subparagraphs (i), (ii) and (iii), shall devolve upon the Disaster Relief Fund, the Refugee Relief Fund and the South African Defence Force Fund, respectively.

- (3) A board shall apply the moneys of the Fund in respect of which it has been appointed and with which such Fund has been credited, to the achievement of its objects and to the defrayal of the costs in connection with the performance of its functions.
- (4) A board shall deposit all the moneys received by it in an account which it shall open with a banking institution registered in terms of the Banks Act, 1965 (Act No. 23 of 1965).
- (5) A board shall from time to time invest with the Public Debt Commissioners or in such other manner as the Minister may, with the concurrence of the Minister of Finance, determine, all moneys which are not required for immediate use or as a reasonable working balance.
- (6) The financial year of a fund shall terminate on 31 March in each year.

- (7) A board shall keep the prescribed accounts, records and registers of all its financial transactions, and shall furnish the Minister with the prescribed reports and financial statements.
- (8) The accounts, records, registers and financial statements of a board shall be audited by the Auditor-General.

**23. Collection of contributions for or on behalf of board, authorized organization or authorized person**

- (1) Any person who collects contributions for or on behalf of a board, an authorized organization or authorized person for an object of that board, shall have in his possession a writing in which the permission which has been granted by that board, organization or person to such person so to collect contributions is set out.
- (2) A person who for remuneration collects contributions for or on behalf of a board, authorized organization or authorized person for an object of that board, shall have in his possession a writing in which the special permission which has been granted by that board, organization or person to such person so to collect contributions, is set out and which states the conditions subject to which and the remuneration for which the collection takes place.
- (3) A permission or special permission shall lapse -
  - (a) on the expiry of the period for which it was granted or on the expiry of a period of one year reckoned from the date on which it was granted, whichever is the shorter period; or
  - (b) if it is withdrawn; or
  - (c) if the special authority granted to the authorized organization or authorized person which or who granted the permission or special permission, is withdrawn.
- (4) The provisions of subsections (5), (6) (a) and (c), (7), (8) and (11) of section 7 shall *mutatis mutandis* apply in relation to the collection of contributions by virtue of a permission or special permission granted under subsection (1) or (2).

**24. Disposal of assets and documents of authorized persons and authorized organizations**

- (1) If an authorized organization discontinues its activities or is dissolved in terms of the provisions of its constitution or if the special authority granted to

it has lapsed or has been withdrawn in terms of this Act, the management of such organization shall -

- (a) within the prescribed period submit to the board which has granted the special authority to it the prescribed returns, statements, a liquidation and distribution account and such other information as may be required by such board;
  - (b) deliver, within the period specified by such board, to the board all the records and documents relating to the collection and disbursement of contributions for or on behalf of such board and which are in its possession or under its control;
  - (c) immediately deliver or transfer to such board the assets shown in the liquidation and distribution account as available for distribution.
- (2) A liquidation and distribution account referred to in subsection (1) shall lie for inspection of the public for the prescribed period at the office of the board to which it has been submitted.
- (3) The provisions of subsections (1) and (2) shall *mutatis mutandis* apply in respect of an authorized person if such person has discontinued his activities or if the special authority granted to him in terms of section 21, has lapsed or has been withdrawn in terms of this Act.
- (4) If an authorized organization has discontinued its activities or if the special authority granted to it in terms of this Act has lapsed, and its management is not or cannot be so constituted in accordance with its constitution in order that the authorized organization may be dissolved, the board which granted the special authority to it may dissolve such organization and may without warrant seize the assets, records and documents of the said authorized organization in so far as they relate to or are connected with the collection or disbursement of contributions for or on behalf of such board, and the board shall thereupon cause to be prepared a liquidation and distribution account as contemplated in subsection (1) (a) in respect of assets and liabilities of such organization, which shall lie for inspection as contemplated in subsection (2).

## **25. Performance of administrative work of boards**

The administrative work, including the receipt and disbursement of money incidental to the performance of the functions or the exercise of the powers of a board or of any committee of the board shall be performed by officers in the public service designated by the Secretary and who shall be under his control.

## **26. Declaration of certain events to be disasters**

- (1) If at any time in the opinion of the State President it appears that serious material damage or loss or distress has occurred or is likely to occur as a result of a sudden or disastrous event in a particular area, whether in the Republic or elsewhere, and that the relief of the distress of the persons who are or will be affected thereby is likely to be supported by the public generally or by any particular section of the public, he may by proclamation in the *Gazette* declare such event for the purposes of this Act to be a disaster.
- (2) The State President may at any time in a like manner withdraw or amend any proclamation referred to in subsection (1).

### **CHAPTER III**

#### **GENERAL AND SUPPLEMENTARY PROVISIONS**

**27. Responsibility of members of fund-raising organizations, registered branches and authorized and other organizations**

Any person who, in any way, participates in the management or control of a fund-raising organization or registered branch or an authorized or other organization which contravenes or fails to comply with any provision of this Act, shall, if such contravention or failure is an offence in terms of the said Act, be guilty of an offence.

[S. 27 substituted by s. 5 of Act 41/80]

**28. Organizations and branches to have written constitutions, complying with prescribed conditions**

- (1) No authority or a temporary authority or special authority shall be granted to any organization and no branch shall be registered in terms of this Act, unless it is managed according to a written constitution which shall comply with the prescribed requirements and a certified copy of the constitution is furnished, in the case of an authorized organization, to the board granting the special authority, or in any other case, to the Director.
- (2) No amendment of such constitution which relates to a prescribed condition, shall be of force and effect, unless the board in question or the Director, as the case may be, has consented thereto in writing.

(Section 29: Decided cases)

**29. Minister may prohibit collection of contributions for certain purposes or in certain manner or by or for or on behalf of certain persons or organizations**

- (1) If the Minister deems it to be in the public interest, he may, notwithstanding the provisions of this Act, and without giving any person or organization notice or an opportunity to make representations, by notice in the *Gazette*

prohibit the collection of contributions for any purpose or in any manner or by or for or on behalf of any person or organization mentioned in such notice.

[Sub-s. (1) substituted by s. 1 of Act 92/81]

- (2) No authority, permission, registration certificate, special authority, special permission or temporary authority or contributions shall be granted or collected in conflict with such a prohibition.
- (3) The Minister may at any time by like notice amend or withdraw a notice referred to in subsection (1).

### **30. Inspection of affairs of organizations and persons collecting contributions**

- (1) Subject to the laws governing the public service, the Director may, with the approval of the Secretary, appoint inspectors who may generally or in a particular case investigate the affairs or any part of the affairs of any organization which or person who he has reason to suspect, is collecting contributions from the public.
- (2) If the Director deems it necessary, he may, with the approval of the Secretary, and subject to such conditions as the Minister may from time to time and in consultation with the Minister of Finance determine, appoint any person who is not in the full-time employment of the State as an inspector in any particular case or may so appoint such person to assist an inspector appointed in terms of subsection (1) with an investigation referred to in that subsection.
- (3) Any person appointed in terms of subsection (2) shall, for the purpose of the investigation for which he has been appointed, have all the powers and all the duties of an inspector referred to in subsection (1).
- (4)
  - (a) Any person appointed as an inspector in terms of subsection (1) or (2) shall be  
furnished with a certificate of appointment signed by the Director and stating that he has been appointed as an inspector in terms of this section.
  - (b) An inspector shall, on request, produce for inspection the certificate of appointment furnished to him in terms of paragraph (a).
- (5) The Director may -
  - (a) if he has reason to believe that any organization or person has contravened a provision of this Act;
  - (b) if he deems it necessary in order to determine whether any organization or person is complying with or is subject to the provisions of this Act;

- (c) if he has reason to believe that any irregularity or undesirable practice has occurred in connection with the collection or disposal of contributions by any organization or person; or
- (d) if requested thereto by any person and if he is satisfied on the ground of facts declared under oath that an inspection of the affairs of any organization which or person who is collecting or allegedly collecting contributions, is necessary or desirable,

at any time with the approval of the Minister inspect or cause the affairs of such organization or person to be inspected, or may inspect or cause to be inspected the affairs of any other organization or person connected with the collection or disbursement of contributions by or for on behalf of the first-mentioned organization or person.

- (6) The Director or an inspector who carries out an inspection of the affairs of an organization or person in terms of this section -
  - (a) may at any time with the approval of the Minister and without prior notice enter any premises of the said organization or person and, without a warrant, search such premises for money, securities, records, accounts or documents and demand the delivery to him of any or all of the securities, records, accounts or documents of such organization or person;
  - (b) may examine any or all of such securities, records, accounts or documents and make or cause to be made extracts therefrom or copies thereof or, after he has issued a receipt therefor, remove from the premises of the said organization or person such securities, records, accounts or documents for examination by him or for the making of any extract therefrom or copy thereof, or may seize them if, in his opinion, they may provide proof of the commission of any offence or irregularity;  
[Para. (b) substituted by s. 6 of Act 41/80]
  - (c) may demand from the said organization or person any such explanations of any entry in the said records, accounts or documents as he may deem necessary;
  - (d) may interrogate under oath or affirmation any person who is a member of the said organization or of its management or any person who is or was an employee, an auditor, an accountant or a representative of the said organization or person in regard to its affairs and activities in so far as they are connected with the collection and disbursement of contributions, and may for the purpose of such interrogation administer the oath to or accept an affirmation from such person.

- (7) Any person who is interrogated in terms of subsection (6) (d) shall be entitled to have his legal representative present at the interrogation.
- (8) Any person requested thereto in terms of subsection (6) (a), shall forthwith deliver to the Director or inspector any security, record, account or document referred to in that subsection which is in his possession or under his control or to which he has access and shall at the request of the Director or inspector furnish the Director or inspector with the information relating to the affairs or activities, securities, records, accounts or documents of the said organization or person at his disposal.
- (9) Any organization or person or his lawful representative shall have the right, during office hours and subject to such supervision as the Director or an inspector may determine, to examine and make entries in or extracts from any of the securities, records, accounts or documents which have been seized in terms of subsection (6) (b).
- (10) (a) The Director or any inspector carrying out an inspection under this section, shall  
make a full report on the inspection, and a report made by an inspector shall be submitted to the Director.
- (b) The Director shall forward to the organization or person concerned a copy of any report referred to in paragraph (a).
- (11) Any person carrying out or assisting with an inspection under this section, shall preserve or assist in preserving secrecy in respect of all matters that may come to his knowledge in the performance of his duties, and shall not communicate any such matter to any person other than the Director or the board which has granted a special authority to the authorized organization concerned or to the organization or person concerned or his authorized representative, except by an order of a court of law.
- (12) Notwithstanding anything to the contrary in subsection (11) contained, any information acquired by the Director in the course of an inspection under this section may be used by the Director and his staff or the board concerned in the performance of their duties in terms of this Act.
- (13) If the Director is satisfied that any person at whose request an inspection has been made in terms of subsection (5) (d), had no sufficient reason for the request, he may recover from such person the costs of such inspection or such part of the costs of such inspection as he may determine.

### **31. Disposal of unlawfully collected contributions**

- (1) If the Director has reason to suspect that any contributions have been collected in contravention of any provisions of this Act, or that the provisions of section 7 (5) or (6) have not been complied with in respect of any collection of contributions, he may by order under his hand -
  - (a) direct any person who has collected such contributions to furnish the Director with the name and address and any other information which he may require in order to enable him to identify or trace any other person who to the knowledge of such person has collected such contributions or has such contributions in his possession or under his control;
  - (b) direct any person who has such contributions in his possession or under his control, to retain possession or control thereof until a further order in respect thereof has been made by him, or to transfer or deliver such contributions or any part thereof to the Director; or
  - (c) order any person who has such contributions in his possession or under his control to return, if practicable, to each contributor who is known, the contribution contributed by him, and to transfer or deliver the balance (if any) to the Director.
- (2) The Director shall return to the contributor who made the contribution and who is known, any contributions transferred or delivered to him in terms of an order referred to in subsection (1) or any contribution collected in contravention of the provisions of this Act and transferred or delivered to him otherwise than in terms of such order, or, if such return is not practicable, dispose thereof in such manner as the Minister may determine.
- (3) If any person receives any unsolicited contribution from any other person and the collection of the said contribution is in conflict of the provisions of this Act, he shall forthwith return such contribution to the contributor thereof, or, if such return is not practicable, he shall deal with it in such manner as the Minister may determine in the case concerned.

## **32. Savings**

- (1) Any registration certificate, letter of delegation, written authority or document of authority granted or issued in terms of any provision of the National Welfare Act, 1965 (Act No. 79 of 1965), and in force immediately before the commencement of this Act, shall, with effect from such commencement, be deemed to be an authority, registration certificate, temporary authority or permission granted in terms of sections 4, 5, 6 and 7 of this Act, respectively, and shall lapse, in the case of the first-mentioned registration certificate or letter of delegation, on the expiry of a period of two years after such commencement and, in the case of such written authority or document of authority, on the expiry of the period for which it was granted or

issued, or, if it was not granted or issued for a specified period, or if it was granted or issued for a period of six months or longer, on the expiry of a period of six months after such commencement.

- (2) A branch of a welfare organization which immediately before the commencement of this Act is the holder of a letter of delegation granted in terms of section 27 of the National Welfare Act, 1965 (Act No. 79 of 1965), shall be deemed, for as long as the fund-raising organization of which it is a branch is authorized in terms of this Act to collect contributions from the public, but not exceeding a period of two years as from such commencement, to have been registered in terms of section 5 as a branch of the fundraising organization concerned.

### **33. Application of certain provisions of this Act**

- (1) The provisions of Chapter I shall not apply in respect of the collection of contributions -
  - (a) collected in terms of any other law;
  - (b) collected by or for or on behalf of an institution managed or maintained exclusively by the State or a local authority or a hospital board established by or under any law;
  - (c) collected from any person by virtue of his membership of the organization collecting the contributions;
  - (d) collected by or on behalf of a religious body during a religious service or in terms of the written authority of such body and exclusively for the purpose of promoting the religious work of such body;
  - (e) collected for or on behalf of any educational institution from a former student or scholar of such institution or from the parent, guardian or foster parent of a person who is or was a student or scholar of such institution;
  - (f) collected for or on behalf of a political party;
  - (g) collected under the supervision and control of the council of a university in the Republic or of a college as defined in the Advanced Technical Education Act, 1967 (Act No. 40 of 1967), and for the purposes of the development of such university or college;
  - (h) collected for or on behalf of or by an organization designated by the Minister for the purposes of this section.

- (2) The provisions of this Act shall not apply in respect of money referred to in section 2 (2) of the Affected Organizations Act, 1974 (Act No. 31 of 1974), collected by or for or on behalf of an affected organization referred to in that section.
- (3) The Minister may withdraw a designation in terms of subsection (1) (h) at any time after notice of three weeks to the organization concerned.

#### **34. Offences and penalties**

- (1) Any person who -
  - (a) contravenes any provision of section 2, 11, 12 (1) or 21 (1) or fails to comply with an order referred to in section 31 (1);
  - (b) contravenes any provision of section 7 (6), 7 (9) (b), 30 (11) or 31 (3), or refuses or fails to comply with a request referred to in section 7 (8), 13 (1) (a) or 30 (8); or
  - (c) wilfully hinders or obstructs the Director or any member of his staff or any inspector in the execution of his duties or falsely represents himself to be the Director or such member or inspector,

shall be guilty of an offence.

- (2) Any person convicted of an offence under any provision of this Act shall be liable -
  - (a) in the case of an offence referred to in paragraph (a) of subsection (1), to a fine not exceeding R1 500 or imprisonment for a period not exceeding three years or to both such fine and such imprisonment;
  - (b) in the case of an offence referred to in section 27 or paragraph (b) or (c) of subsection (1) of this section, to a fine not exceeding R500 or imprisonment not exceeding six months or to both such fine and such imprisonment.

[S. 34 substituted by s. 7 of Act 41/80]

#### **35. Delegation of powers**

- (1) The Secretary may authorize any officer in the department of state of which the Secretary is the head, to exercise any power conferred upon the Secretary by this Act.
- (2) The Director may, with the approval of the Secretary, authorize any officer in the department of state of which the Secretary is the head, to exercise on his behalf any power conferred upon the Director by this Act.

### **36. Regulations**

- (1) The Minister may make regulations relating to -
  - (a) the form of any application, authority, temporary authority, special authority, permission, special permission notice, order or register which is required or may be made, granted, given, issued or kept under this Act, and any other form required in carrying out the provisions of this Act;
  - (b) the information which shall be included in any report, return or statement to be furnished in terms of this Act;
  - (c) the financial year of fund-raising organizations or registered branches;
  - (d) any other matter which is required to be or may be prescribed under any provision of this Act;
  - (e) any matter which the Minister deems necessary or expedient to prescribe in order that the objects of this Act may be achieved.
- (2) Any regulations made under subsection (1) may prescribe penalties for a contravention thereof not exceeding a fine of five hundred rand or imprisonment for a period of six months.

### **37. Repeal of laws**

The National Welfare Act, 1965 (Act No. 79 of 1965), the National Welfare Amendment Act, 1971 (Act No. 13 of 1971), and the National Welfare Amendment Act, 1976 (Act No. 44 of 1976), are hereby repealed in so far as those Acts relate to the control of the collection of contributions for the funds of welfare organizations or certain institutions or for certain other purposes therein referred to.

### **38. Short title and commencement**

This Act shall be called the Fund-raising Act, 1978, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

[Chapter III has been repealed by s. 33 of Act 71/97, to the extent that it applies to fund-raising organisations, branches of such organisations and any other organisation contemplated in Chapter I of this Act]